

(a) Definitions

(1) “Carryout bag” means a bag provided by a retail establishment to a customer at the point of sale for the purpose of transporting groceries or retail goods, except that a

“carryout bag” shall not mean:

(A) a bag used by customers inside a retail establishment to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;

(B) a bag used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness or prevent contamination;

(C) a bag used to protect or transport unwrapped prepared foods or bakery goods;

(D) a bag provided by a pharmacist to contain prescription medication;

(E) newspaper bags for home newspaper delivery;

(F) laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;

(G) bags sold in packages containing multiple bags;

(H) a bag used to contain live animals, such as fish or insects sold in pet stores.

(2) “Operator” means the person in control of, or having the responsibility for, the operation of a retail establishment, including, but not limited to, the owner of the retail establishment.

(3) “Restaurant” means any lunchroom, café, or other establishment located in a permanent building for the accommodation of the public, equipped with a kitchen containing facilities and utensils for preparing and serving meals to the public, and outfitted with a public dining area. A “restaurant” does not include any area of a

supermarket, department store, or other retail establishment beyond the kitchen and public dining area.

(4) “Retail establishment” means any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods, or materials directly to a customer, whether for or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, clothing stores, and household goods stores, but excluding bazaars or special events operated by a nonprofit organization or religious institution.

(5) “Reusable carryout bag” means a carryout bag that is designed and manufactured for multiple uses and is:

- (A) made of cloth or other machine-washable fabric that has stitched handles; or
- (B) a polypropylene bag that has stitched handles.

(b) Carryout Bag Fee

(1) Except as provided in subsection (c), a retail establishment may not provide a customer with a carryout bag that does not meet the definition of a reusable carryout bag unless the retail establishment charges the customer no less than \$0.10 per bag. A retail establishment may not rebate or otherwise reimburse any non-exempt customer any portion of this charge.

(2) Any charge for a carryout bag shall be separately stated on the transaction receipt provided to the customer at the time of sale, if such a receipt is provided.

(3) All monies collected pursuant to this paragraph are retained by the retail establishment and may be used for any lawful purpose.

(4) Retail establishments may provide reusable carryout bags for sale or at no charge.

(5) No retail establishment may refuse to allow customers to bring with them and use their own reusable bag or bags, nor may the retail establishment charge customers for the use of their own reusable bag or bags.

(c) Exemptions

(1) Food banks, soup kitchens, and other hunger relief organizations are exempt from the requirements of subsection (b).

(2) A retail establishment may not charge for a carryout bag in any transaction in which purchases are made with state or federal supplemental nutrition assistance programs, commonly known as food stamps, food coupons or other type of allotment issued under 7 U.S.C. 2011–2036, or with food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children), or other similar programs.

(d) Enforcement

(1) The Solid Waste Management Department has primary responsibility for enforcement of this Article. The Solid Waste Management Department is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Article, including but not limited to, investigating violations, issuing fines, and entering the premises of any store during business hours.

(2) If the Solid Waste Management Department determines that a violation of this Article has occurred, it will issue a written notice to the operator of the retail establishment that a violation has occurred and the potential penalties that will apply for future violations.

Commented [MB1]: This section can and should be modified by the City to meet its needs.

(3) If a retail establishment violates any of the requirements of this Article after a written notice has been issued for that violation, the following penalties will be imposed and shall be payable by the operator of the retail establishment:

(A) a fine not exceeding one hundred dollars (\$100.00) for the first violation that occurs following written notice;

(B) a fine not exceeding two hundred dollars (\$200.00) for the second violation that occurs following written notice;

(C) a fine not exceeding five hundred dollars (\$500.00) for the third and any subsequent violation(s) that occurs following written notice.